

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CLAUDE BENCKENSTEIN, §
Plaintiff, §
§
v. § CIVIL ACTION NO. 4:17-cv-2940
§
CENTRAL MUTUAL INSURANCE §
COMPANY, §
Defendant. §

NOTICE OF REMOVAL

Defendant, Central Mutual Insurance Company (hereinafter referred to as “Central”), hereby files this Notice of the Removal of this case from the 157th Judicial District Court of Harris County, Texas, to the United States District Court for the Southern District of Texas, Houston Division, pursuant to 28 U.S.C. § 1441 and 1446(b) and would show the Court as follows:

1.

Central has been sued in Cause No. 2017-57009, entitled “Claude Benckenstein v. Central Mutual Insurance Company”, currently pending in the 157th Judicial District Court of Harris County, Texas. That lawsuit was originally filed on August 25, 2017 in the 157th Judicial District Court of Harris County, Texas.

2.

Central first received notice of Plaintiff’s lawsuit when Central was served with Plaintiff’s lawsuit on September 7, 2017. Central is filing this notice well prior to thirty days of that date, thereby making this removal timely under 28 U.S.C. § 1446(b).

3.

At the date of commencement of this action and at all pertinent times, Plaintiff is a citizen

of the State of Texas, being an individual residing and domiciled in the State of Texas.

4.

At the date of commencement of this action and at all pertinent times, Central is a citizen of the State of Ohio, being an insurance company incorporated in the State of Ohio, and having its principal place of business in the State of Ohio.

5.

The amount in controversy required for diversity jurisdiction is clearly met in this case, as Paragraph 4 of Plaintiff's Original Petition states the amount in controversy is between \$100,000 and \$1,000,000, thereby satisfying the necessary amount in controversy requirement for diversity of citizenship jurisdiction.

6.

This Court has original jurisdiction of this action under 28 U.S.C. § 1332, and it may be removed to this Court by Central, pursuant to 28 U.S.C. § 1441, it being a civil action wherein the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, as between citizens of different states. This is demonstrated by Paragraph 4 of Plaintiff's Original Petition as set forth above, where Plaintiff alleges he is seeking monetary relief over \$100,000 and under \$1,000,000..

7.

Copies of all the pleadings which have been filed in this action to date and which are attached as Exhibit "A" include the following:

- a. Plaintiff's Original Petition; and
- b. Citation served on Central.

To the best of Central's knowledge, no other pleading, process or order has been filed or

served in the state court lawsuit referred to above.

Wherefore, Defendant, Central Mutual Insurance Company, prays that this action be removed to this Court from the 157th Judicial District Court of Harris County, Texas and for further proceedings as may be necessary.

Respectfully submitted,

/S/Russell J. Bowman
Russell J. Bowman, Attorney in Charge
Texas State Bar No. 02751550
Southern District Bar No. 20283
800 West Airport Freeway, Suite 860
Irving, Texas 75062
(214) 922-0220
(214) 922-0225 (FAX)
E-Mail: russelljbowman@sbcglobal.net
ATTORNEY FOR DEFENDANT
CENTRAL MUTUAL INS. CO.

CERTIFICATE OF SERVICE

This is to certify that on October 1, 2017, I electronically filed the foregoing document with the clerk of court for the U. S. District Court, Southern District of Texas, using the electronic case filing system of the court.

I hereby certify that I have served a true and correct copy of the foregoing document as indicated below, on this the 1st day of October, 2017:

Mr. Richard D. Daly
Daly & Black, P.C.
2211 Norfolk Street, Suite 800
Houston, Texas 77098

VIA E-MAIL - rdaly@dalyblack.com

/S/Russell J. Bowman
Russell J. Bowman

EXHIBIT A